

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRANK HARGROVE, JR. and RICHARD WHITE,
for themselves and others similarly-situated, and
INTERNATIONAL UNION, UNITED
AUTOMOBILE, AEROSPACE,
AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA (UAW),

Plaintiffs,

Case No. 2:10-cv-10946
Class Action

v.

U.S. District Judge Arthur J. Tarnow

EAGLEPICHER CORPORATION also known as
EP MANAGEMENT CORPORATION and as
EAGLEPICHER MANAGEMENT COMPANY,

Defendant.

ORDER CERTIFYING CLASS ACTION

Pursuant to the filings related to plaintiffs' motion for class certification (docket 20, 21, 24, and 25), and the March 21, 2012 hearing addressing plaintiffs' motion, and the Court having considered the papers, evidence, and viewpoints presented by the parties and being otherwise advised, the motion is granted and the Court finds as follows.

1. The prerequisites for class certification under Fed.R.Civ.P. 23(a) and (b)(1) and (2) and (g) are satisfied.
2. Plaintiffs Frank Hargrove Jr. and Richard White are retirees and former employees of defendant EaglePicher. They worked at EaglePicher's now-closed Wolverine Gasket plant in Inkster, Michigan where they were members of the collective bargaining unit represented by plaintiff International Union, United Automobile, Aerospace, and Agricultural

Implement Workers of America (UAW). EaglePicher and UAW were parties to various collective bargaining agreements (“CBAs”) addressing retirement healthcare benefits.

3. Plaintiffs Hargrove and White sue for themselves and for a similarly-situated class of approximately 22 retirees and retirees’ family members and surviving spouses. They sue under Section 301 of the Labor-Management Relations Act (LMRA), 29 U.S.C. §185, and under Section 502(a) of the Employee Retirement Income Security Act (ERISA), 29 U.S.C. §1132(a).

4. Lawsuits to enforce collectively-bargained retirement healthcare promises under LMRA, and as welfare benefits plans under ERISA, may be prosecuted as class actions under Rules 23(a)(1)-(4), (b)(1)(A) and (B), and (b)(2). See, e.g., *Reese v. CNH America*, 227 F.R.D. 483 (E.D. Mich. 2005) and *Golden v. Kelsey-Hayes Co.*, 954 F.Supp. 1173 (E.D. Mich. 1997).

5. Here, the class consists of: All former EaglePicher/Wolverine Gasket employees who were members of the UAW-represented collective bargaining unit at EaglePicher’s now-closed Wolverine Gasket plant in Inkster, Michigan who are eligible under collective bargaining agreements and welfare benefit plans for company-provided retirement healthcare, and all eligible surviving spouses and other eligible dependents of those retirees.

6. The Court finds that the size and characteristics of this class are such that joinder of all its members is impracticable, that there are questions of law and fact common to the class, that the LMRA and ERISA claims asserted by plaintiffs are typical of the claims of the class, that the defenses asserted by defendant EaglePicher typically apply to the claims of the class, and that plaintiffs Hargrove and White and their counsel, Stuart M. Israel and Legghio & Israel, P.C., will fairly and adequately represent the class, and that the prerequisites to class certification set by Rule 23(a)(1)-(4) and (g) are satisfied.

7. The Court finds that the conduct of defendant EaglePicher was undertaken on grounds generally applicable to the class, making any final injunctive and declaratory relief applicable to the class as a whole, and that class certification is appropriate to avoid inconsistent or varying adjudications, and that the standards for certification under Rules 23(b)(1)(A) and (B) and (2) are satisfied.

8. The class is hereby certified, consistent with the preceding paragraphs, pursuant to Rules 23(a)(1)-(4), (b)(1) and (2), and (g).

s/Arthur J. Tarnow
U.S. District Judge Arthur J. Tarnow

Dated: April 4, 2012

Consent:

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April 3, 2012